

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in
DAC

In re Patent Application of

Atty SCS-540-551

Dkt.

C# M#

KAYE

C/A.U.

3725

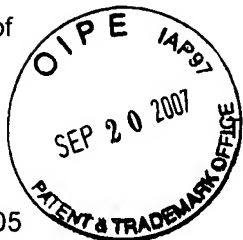
Serial No. 10/525,063

Examiner: T. Bonk

Filed: February 18, 2005

Date: September 20, 2007

Title: METHOD AND TOOL FOR FORMING A BRACKET IN COMPOSITE MATERIAL
AND BRACKET



Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☒ **Renewed Petition under 37 CFR 1.181 attached.**

Fees are attached as calculated below:

Total effective claims after amendment	10	minus highest number	
previously paid for	20	(at least 20) =	0 x \$50.00
			\$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment	4	minus highest number	
previously paid for	4	(at least 3) =	0 x \$200.00
			\$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add
\$360.00 (1203)/\$180.00 (2203) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s)

One Month Extension	\$120.00 (1251)/\$60.00 (2251)
Two Month Extensions	\$450.00 (1252)/\$225.00 (2252)
Three Month Extensions	\$1020.00 (1253)/\$510.00 (2253)
Four Month Extensions	\$1590.00 (1254)/\$795.00 (2254)
Five Month Extensions	\$2160.00 (1255)/\$1080.00 (2255) \$

Terminal disclaimer enclosed, add
\$130.00 (1814)/\$65.00 (2814) \$

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee	\$180.00 (1806)	\$	0.00
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Assignment Recording Fee	\$40.00 (8021)	\$	0.00
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Other:		\$	0.00
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TOTAL FEE \$ 0.00

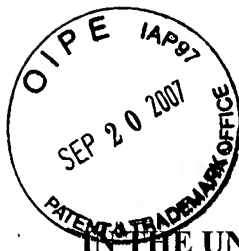
☐ **CREDIT CARD PAYMENT FORM ATTACHED.**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
By Atty: Stanley C. Spooner, Reg. No. 27,393

Signature: _____



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

KAYE

Atty. Ref.: 540-551; Confirmation No. 5875

Appl. No. 10/525,063

TC/A.U. 3725

Filed: February 18, 2005

Examiner: T. Bonk

For: METHOD AND TOOL FOR FORMING A BRACKET IN COMPOSITE MATERIAL
AND BRACKET

* * * * *

September 20, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**REQUEST FOR RECONSIDERATION AND
RENEWED PETITION UNDER 37 CFR 1.181**

Applicant requests reconsideration of the Decision on Petition mailed July 20, 2007.

The Commissioner's Decision on Petition is very much appreciated. The Decision granted-in-part Applicant's Petition filed February 12, 2007 asking for (1) reconsideration and withdrawal of the restriction requirement and having non-elected claims 6-9 rejoined and examined on the merits; (2) withdrawal of objections to the drawings; and (3) withdrawal of the objections to the specification, all contained in the outstanding Official Action dated October 11, 2006. The Commissioner's granting of the request to withdraw the objection to the drawings and the specification as noted in the last line on page 3 of the Decision is very much appreciated.

However, issue is taken with the Decision's conclusion that "because all of the features of claim 1 is [sic] known and does not avoid the prior art, there is no special technical feature

that defines a contribution over the prior art that is common to all of the independent claims.”

This conclusion, believed to be the predicate to the Decision’s concluding that “clearly there is lack of unity of invention” is clearly erroneous in view of the present claims and the cited prior art.

Applicant points to the discussion on page 10 of the previously filed Amendment and Petition to the Commissioner which points out that with respect to claim 1, neither the Machida (U.S. Patent 4,784,920) nor Fogg (U.S. Patent 4,210,694) patents teach or otherwise disclose a fold line which extends “only partially across the blank.” This language was included in the language of claim 1 upon which the Official Action of October 11, 2006 was based and was not added in view of the most recent amendment.

Applicant has previously pointed out that in the Machida reference, the fold line extends completely across the blank from one side to the other, and this is confirmed by even a cursory review of the Machida reference. Applicant also previously pointed out that the fold lines in Figure 7 of Fogg also extend all the way across the blank. Fold lines 34 and 36 extend from one edge to the opposite edge of the blank and thus cannot extend “only partially” across the blank. Fold lines 44, 30 and 48 are portions of a single fold line, and even though the tabs overlap when the blank is folded along fold lines 34 and 36, extends from one side to the other. Accordingly, there is no disclosure in either Machida or Fogg of a blank in which the fold lines extends only “partially across the blank.”

Additionally, claim 1 has been limited to the extent that it recites not only that the fold line extends only “partially across” the blank, but the limited fold line serves to create “non-folding portions of said blank at each end of the fold line.” Because both Machida and Fogg

employ fold lines which extend all the way across the blank, neither meets this previously amended claim 1 language.

The existence of “non-folding portions of the blank at each end of the fold line” can be easily seen in Figures 5, 6 and 7 where the fold line 52 does not extend all the way across the blank. The non-folding portions of the blank at the right-hand end of fold line 52 is part of the portion of the blank labeled 54 as is the non-folding portion of the blank at the left-hand end of the fold line is a portion of the blank labeled 56. Therefore, the previously amended claim 1 is clearly not anticipated or rendered obvious by either the Machida or Fogg references.

Because, not only does previously submitted independent claim 1 define over the Machida and Fogg references in either of two aspects (“the fold line extending only partially across the blank,” and the fold line creates “non-folding portions of said blank at each end of the fold line,” there is no *prima facie* case of anticipation or obviousness. As a result, the Decision does not support the conclusion that “all of the features claim 1 is [sic] known and does not avoid the prior art” The Decision simply has not no allegation that the claim 1 language is anticipated or obvious in view of either Machida or Fogg, especially since they teach that their respective fold lines pass from one side to the other of the blank and do not have any non-folding portions at any end of the fold line.

Thus, the Commissioner’s determination that “all of the features of claim 1 is [sic] known” is respectfully traversed, as this conclusion is simply not borne out by any of the facts of record in this case.

Regarding the withdrawn independent claims 6, 8 and 9, they all recite that the fold line extends “only partially across the blank/[tool].” Withdrawn claim 7 depends from claim 6 and withdrawn claim 10 depends from independent claim 1. Thus, all withdrawn claims 6-10 recite

the same limitation set forth in independent claim 1 which is one of the limitations missing from both of the cited prior art references, i.e., Machida or Fogg. Accordingly, this feature of claim 1 does clearly avoid the cited prior art and is not known, and therefore there is clear unity of invention in these claims.

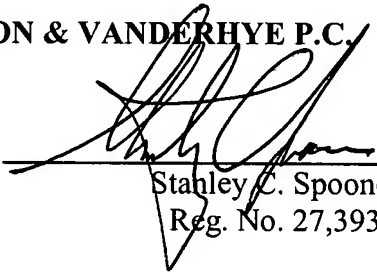
Reconsideration of the Decision on Petition with respect to the requested withdrawal of the restriction requirement is respectfully requested.

Having responded to all points raised in the Decision on Petition, it is respectfully submitted that claims 1-10 demonstrate a unity of invention and notice to that effect is respectfully requested. Should the Patent Office believe that a telephone or personal interview will facilitate allowance of one or more of the above claims, the Office is requested to contact Applicant's undersigned representative.

Respectfully submitted,

NIXON & VANDERHYTE P.C.

By: _____


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